

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed October 3, 2007. Claims 1-3, 6, 8, and 9 are amended. Claims 1-9 are now pending in view of the above amendments, claim 10-21 having been withdrawn from consideration by a restriction requirement.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. Rejection Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claims 1-9 under 35 U.S.C. § 112, Second Paragraph for indefiniteness. In particular, the Examiner found insufficient antecedent basis for "the network operation" in claim 1 and "the sample window" in claim 8. Applicants respectfully submit that the rejection has been rendered moot by the foregoing amendments to each of claims 1 and 8. Accordingly, withdrawal of the rejection is respectfully requested.

II. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(b)

The Examiner rejects claims 1-21 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,850,388 to *Anderson et al.* ("*Anderson*"). Applicants respectfully traverse the rejection.

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as

complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *See Manual of Patent Examining Procedure ("MPEP")* § 2131.

As amended, claim 1 recites, among other things: "calculating an initial state for each device in the network topology for at least one of the first predetermined number of intervals based upon events that occur outside the sample duration window." Support for this amendment may be found at least in paragraphs [0061] and [0062] of the specification. In contrast, the Examiner has not established that *Anderson* describes the aforementioned limitation either expressly or inherently.

Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1 and corresponding dependent claims 2-9.

B. Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 3 and 6 under 35 U.S.C. § 103 as being unpatentable over *Anderson* in view of U.S. Patent No. 6,327,677 to *Garg et al.* ("*Garg*"). Applicants respectfully traverse the rejection.

Claims 3 and 6 depend from claim 1, and thus each includes every element of claim 1. Therefore, Applicants submit that, consistent with the discussion above as to claim 1, the Examiner has not established that *Anderson* teaches or suggests all the limitations of claim 1. *Garg*, relied on for other claim limitations, does not cure the deficiencies of *Anderson*. For at least these reasons, the Examiner has not established a *prima facie* case of obviousness and Applicants respectfully submit that the rejection of claims 3 and 6 should be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 4th day of February, 2008.

Respectfully submitted,

/Ronald J. Ward/Reg. No. 54,870

RONALD J. WARD
Registration No. 54,870
Attorney for Applicant
Customer No. 022913
Telephone: (801) 533-9800